IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

GREAT LAKES FASTENERS, INC. 2097 Case Parkway North Twinsburg, Ohio 44087 (PLAINTIFF)	) CASE NO.: 5:17-CV-816) JUDGE:
V.	) COMPLAINT FOR PRELIMINARY) AND PERMANENT INJUNCTIVE) RELIEF AND MONETARY) DAMAGES
GREAT LAKES FASTENERS CORP. 5075 Clay Ave. Grand Rapids, Michigan 49548 (formerly Grand Rapids Bolt and Nut Co., Inc., d/b/a Great Lakes Fastener and Supply) (DEFENDANT)	) DEMAND FOR JURY TRIAL

Plaintiff Great Lakes Fasteners, Inc. (hereinafter "Plaintiff" and/or "GLF Inc.") for its complaint against Defendant Great Lakes Fasteners Corp. (hereinafter "Defendant" and/or "GLF Corp") states and alleges as follows:

INTRODUCTION

1. Plaintiff seeks equitable relief and damages from the Defendant for its unlawful acts amounting to (1) infringement of the unregistered trademark GREAT LAKES FASTENERS, false designation of origin, and unfair competition under §43(a) of the Lanham Act, (2) unfair competition under Ohio common law, (3) deceptive trade practices under O.R.C. 4165.02, (4) unfair competition under Michigan common law, (5) unfair, unconscionable, or deceptive methods, acts, or practices under M.C.L.A. § 445.903, and (6) cyberpiracy under § 43(d) of the Lanham Act.

PARTIES, JURISDICTION, AND VENUE

2. Plaintiff GLF Inc. is an Ohio corporation having a principal place of business located at 2097 Case Parkway North Twinsburg, Ohio 44087. Plaintiff is in the business of selling a wide variety of hardware including fasteners, and provides distributorship and business services in the field of hardware and fasteners.

3. On information and belief Defendant GLF Corporation is a Michigan corporation having a principal place of business at 5075 Clay Avenue Grand Rapids, MI 49548. Defendant purports to be in the business of selling a wide variety of standard and specialty fasteners.

4. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a) because there is complete diversity of the parties and the amount in controversy exceeds $75,000. This Court also has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338 and 15 U.S.C. § 1051 et seq. because the Complaint states a cause of action under the federal Trademark Act. The Court has supplemental jurisdiction over the related state and common law claims pursuant to 28 U.S.C. §§ 1338(b) and 1367(a).

5. Venue is proper in this Court under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims in the Complaint occurred in this judicial district and/or under 28 U.S.C § 1391(c) because Defendants are subject to personal jurisdiction in this judicial district.

FACTUAL ALLEGATIONS

6. Beginning with Plaintiff's founding in 1958 and continuing through the present day Great Lakes Fasteners, Inc. ("Great Lakes Fasteners"), has been continuously engaged, in various aspects of the metal fasteners business including the sale of metal fasteners under the name GREAT LAKES FASTENERS. See Exhibit A Declaration of Jeffrey McConnell and Exhibit B Declaration of Ronald Harenberg.

7. After a long period of unincorporated operations, Plaintiff was incorporated July 24, 1981 as Great Lakes Fasteners, Inc. See Exhibit C, Plaintiff's 1981 Articles of Incorporation.

8. Plaintiff's articles of incorporation were cancelled on January 4, 2007 by the State of Ohio for failing "to file necessary corporate franchise tax reports or pay any such taxes within the time prescribed by law"; however, Plaintiff continued uninterrupted in the business of selling metal fasteners under the unregistered trademark GREAT LAKES FASTENERS throughout the entire period of cancellation. See Exhibit D Cancellation of Plaintiff's 1981 Articles of Incorporation.

9. On January 14, 2010 Plaintiff reincorporated Great Lakes Fasteners, Inc. in the State of Ohio and continued engaging in the metal fasteners business including the sale of metal fasteners, under the unregistered trademark GREAT LAKES FASTENERS. See Exhibit E, Plaintiff's 2010 Articles of Incorporation.

10. Plaintiff has continuously engaged in the metal fasteners business including the sale of metal fasteners, under the unregistered trademark GREAT LAKES FASTENERS from January 14, 2010 to the present day.

11. Since its founding in 1958 Plaintiff has regularly transacted business, and continues to regularly transact business, nationwide and particularly in the states of Ohio and Michigan, including the sale of metal fasteners under the unregistered trademark GREAT LAKES FASTENERS.

12. On information and belief on January 2, 2015 Defendant's board of

directors adopted an amendment to its Articles of Incorporation changing the corporate entity's name from Grand Rapids Bolt and Nut Co., Inc. to Great Lakes Fasteners Corporation, and thus began engaging in the metal fasteners business under the name Great Lakes Fasteners long after the Plaintiff and in an area where the Plaintiff was already engaging in the same or substantially similar line of business without the consent of the Plaintiff. See Exhibit F Certificate of Amendment.

13. On information and belief on January 9, 2015 Defendant, which at that time was named Grand Rapids Bolt and Nut Co., Inc. filed an application to register the identical GREAT LAKES FASTENERS mark on the basis of its intent to use it in connection with "business management services, namely, managing logistics, reverse logistics, supply chain services, supply chain visibility and synchronization, supply and demand forecasting and product distribution processes for others; independent sales representatives in the field of fasteners; on-line wholesale store services featuring fasteners; wholesale ordering services in the field of fasteners; wholesale services by direct solicitation by sales agents in the field of fasteners; wholesale services through direct solicitation by salespersons directed to end-users featuring fasteners; wholesale store services featuring fasteners," in International Class 035, Serial No. 86/499,844. See Exhibit G Defendant's Trademark Application.

14. On information and belief, on January 30, 2015 Defendant filed a certificate of amendment with the Michigan Secretary of State officially changing its name from Grand Rapids Bolt and Nut Co., Inc. to Great Lakes Fasteners Corporation. See Exhibit F Certificate of Amendment.

15. On information and belief on October 27, 2015 Defendant's application (Ser. No. 86/499,844) for GREAT LAKES FASTENERS was published for opposition.

16. On February 24, 2016 Plaintiff filed a Notice of Opposition to Defendant's application (Ser. No. 86/499,844) for GREAT LAKES FASTENERS which was assigned proceeding no. 91/226,527.

17. In the course of discovery in opposition proceeding no. 91/226,527, on

August 31, 2016 the Defendant admitted, on the record, to having no knowledge, possession, or access to evidence establishing its commercial use of GREAT LAKES FASTENERS prior to July 24, 1981. See Exhibit H, Responses to Requests for Admissions.

18. Since its founding in 1958, Plaintiff has devoted substantial resources, time and effort to marketing, promoting and distributing its GREAT LAKES FASTENERS branded fasteners and services. As a result, Plaintiff has developed considerable recognition and goodwill in the GREAT LAKES FASTENERS mark, which is now widely recognized as identifying Plaintiff and its goods, and which is now considered to be among Plaintiff's most valuable assets. Accordingly, the relevant public associates the Plaintiff's metal fastener products and services with the trademark GREAT LAKES FASTENERS.

19. On information and belief Defendant sells and promotes its metal fasteners under the GREAT LAKES FASTENERS mark through various avenues including at the www.glfasteners.com Internet site.

20. On information and belief Defendant registered the domain name www.glfasteners.com on May 5, 1996, long after Plaintiff's GREAT LAKES FASTENERS trademark had become distinctive.

21. Due to Plaintiff's prominent use of its GREAT LAKES FASTENERS trademark for many decades in the same geographic area and market space as Defendant, the Defendant must have been aware of the Plaintiff's mark.

22. The Defendant's use of GREAT LAKES FASTENERS is so similar in appearance, sound, connotation, and meaning that it is likely to cause confusion among the relevant consuming public as to the source of metal fastener goods and services. As a result of the similarity of the parties' marks, the similarity of the goods associated with the marks, and the strength of Plaintiff's GREAT LAKES FASTENERS mark, Defendant's use of the GREAT LAKES FASTENERS mark is likely to cause confusion or mistake, or to deceive purchasers, in that purchasers would be likely to believe Defendant's goods are Plaintiff's goods, or are in some way legitimately connected with, sponsored by, or approved by Plaintiff.

23. Since at least February 24, 2016 the Defendant has been on actual notice that its conduct infringes the senior trademark rights of the Plaintiff, and despite the Plaintiff's demands, the Defendant has chosen to continue its infringing conduct.

COUNT ONE

(Trademark Infringement, false designation of origin, and unfair competition

§ 43(a) of the Lanham Act)

24. Plaintiff incorporates by reference each of the foregoing allegations as if fully rewritten herein.

25. Defendant's use of GREAT LAKES FASTENERS amounts to trademark infringement, false designation of origin, and unfair competition under § 43(a) of the Lanham Act. 15 USC § 1125(a).

26. Defendant's infringing conduct is willful, knowing, and intentional.

27. As a result of Defendant's acts of trademark infringement, false designation and unfair competition, Plaintiff has suffered and will continue suffering irreparable harm.

28. Unless Defendant is enjoined, the Defendant will continue its unlawful conduct which amounts to trademark infringement, false designation of origin, and unfair competition, and will continue to irreparably harm the Plaintiff and confuse the public.

29. Plaintiff is entitled to recover from Defendant all profits, all damages that Plaintiff has sustained due to Defendant's actions, and all costs of this action pursuant to Section 35 of the Lanham Act. 15 U.S.C. § 1117(a).

COUNT TWO

(Unfair competition under Ohio common law.)

30. Plaintiff incorporates by reference each of the foregoing allegations as if fully rewritten herein.

31. Defendant, without the consent or authorization of Plaintiff, has used and is using the GREAT LAKES FASTENERS mark and trade name in connection with its metal fasteners business, which is likely to deceive and cause confusion and mistake among consumers as to the source or origin of the services provided by Defendant.

32. Defendant's use of GREAT LAKES FASTENERS also has caused, and is causing, a likelihood of confusion as to affiliation, connection, or association of Defendant's services with Plaintiff.

33. By using the GREAT LAKES FASTENERS designation Defendant is engaging in unfair competition under Ohio common law.

34. Unless Defendant is enjoined, the Defendant will continue engaging in acts of unfair competition and will continue to confuse the public, and cause irreparable harm to Plaintiff.

35. As a direct and proximate result of Defendant's ongoing unlawful activities, Plaintiff has and continues to suffer damages in an amount to be proven at trial.

COUNT THREE

(Ohio Deceptive Trade Practices under O.R.C. 4165.02)

36. Plaintiff incorporates by reference each of the foregoing allegations as if fully rewritten herein.

37. Defendant, without the consent or authorization of Plaintiff, has used and is using the GREAT LAKES FASTENERS mark and trade name in connection with its metal fasteners business, which has caused and is causing a likelihood of confusion or misunderstanding as to the source, sponsorship or approval of Defendant's goods and/or services with those of Plaintiff.

38. Defendant's use of GREAT LAKES FASTENERS also has caused, and is causing, a likelihood of confusion as to affiliation, connection, or association of Defendant's goods and/or services with Plaintiff.

39. By using the GREAT LAKES FASTENERS designation, Defendant

is engaging in deceptive trade practices in violation of Section 4165.02 of the Ohio Revised Code.

40. Defendant's deceptive trade practices are knowing, intentional, and willful.

41. As a result of Defendant's deceptive trade practices, Plaintiff is suffering irreparable harm.

42. Unless Defendant is enjoined, the Defendant will continue its deceptive trade practices and will continue to confuse the public and cause irreparable harm to Plaintiff.

43. As a direct and proximate result of Defendant's ongoing unlawful activities, Plaintiff has suffered damages and continues to suffer damages in an amount to be proven at trial.

44. Because Defendant's conduct is willful, Plaintiff is also entitled to recover from Defendant reasonable attorney's fees pursuant to Ohio Revised Code § 4165.03.

COUNT FOUR

(Unfair competition under Michigan common law.)

45. Plaintiff incorporates by reference each of the foregoing allegations as if fully rewritten herein.

46. Defendant, without the consent or authorization of Plaintiff, has used and is using the GREAT LAKES FASTENERS mark and trade name in connection with its metal fasteners business, which is likely to deceive and cause confusion and mistake among consumers as to the source or origin of the services provided by Defendant.

47. Defendant's use of GREAT LAKES FASTENERS also has caused, and is causing, a likelihood of confusion as to affiliation, connection, or association of Defendant's services with Plaintiff.

48. By using the GREAT LAKES FASTENERS designation Defendant is engaging in unfair competition under Michigan common law.

49. Unless Defendant is enjoined, the Defendant will continue engaging in acts of unfair competition and will continue to confuse the public, and cause irreparable harm to Plaintiff.

50. As a direct and proximate result of Defendant's ongoing unlawful activities, Plaintiff has and continues to suffer damages in an amount to be proven at trial.

COUNT FIVE

(Michigan unfair, unconscionable, or deceptive methods, acts, or practices under M.C.L.A. § 445.903)

51. Plaintiff incorporates by reference each of the foregoing allegations as if fully rewritten herein.

52. Defendant, without the consent or authorization of Plaintiff, has used and is using the GREAT LAKES FASTENERS mark and trade name in connection with its metal fasteners business, which has caused and is causing a probability of confusion or misunderstanding as to the source, sponsorship or approval of Defendant's goods and/or services with those of Plaintiff.

53. Defendant's use of GREAT LAKES FASTENERS also has caused, and is causing, a probability of confusion as to affiliation, connection, or association of Defendant's goods and/or services with Plaintiff.

54. By using the GREAT LAKES FASTENERS designation, Defendant is engaging in unfair, unconscionable, or deceptive methods, acts, or practices in violation of M.C.L.A. § 445.903.

55. Defendant's deceptive trade practices are knowing, intentional, and willful.

56. As a result of Defendant's deceptive trade practices, Plaintiff is suffering irreparable harm.

57. Unless Defendant is enjoined, the Defendant will continue its unlawful trade practices and will continue to confuse the public and cause irreparable harm to Plaintiff.

58. As a direct and proximate result of Defendant's ongoing unlawful activities, Plaintiff has suffered damages and continues to suffer damages in an amount to be proven at trial.

59. Plaintiff is also entitled to recover from Defendant reasonable attorney's fees pursuant to M.C.L.A § 445.911(2).

COUNT SIX

(Cyberpiracy under §43(d) of the Lanham Act)

60. Plaintiff incorporates by reference each of the foregoing allegations as if fully rewritten herein.

61. At the time that Defendant registered the www.glfasteners.com domain name, the Plaintiff's GREAT LAKES FASTENERS trademark had become distinctive of Plaintiff's metal fastener goods and services throughout Michigan and Ohio, as well as through the entire region around the great lakes.

62. Defendant had a bad faith intent to profit off of the GREAT LAKES FASTENERS mark by registering the www.glfasteners.com domain name.

63. Defendant intended to divert consumers searching for the Plaintiff for his own commercial profit by registering the www.glfasteners.com domain name.

64. The www.glfasteners.com domain name incorporates the GREAT LAKES FASTENERS mark in its entirety.

65. Defendant's bad faith registration and use of the www.glfasteners.com domain name constitutes Cyberpiracy under 15 USC 1125(d).

66. Plaintiff is entitled to statutory damages of $100,000 for Defendant's acts of Cyberpiracy pursuant to 15 USC 1117(d).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff GLF Inc., respectfully requests that this Court enter judgment against the Defendant as follows:

A. Judgment declaring that Defendant is committing trademark infringement and unfair competition under § 15 U.S.C. 1125,

B. Judgment declaring Defendant is committing deceptive trade practices under Ohio Revised Code 4165.02 and unfair competition under Ohio common law;

C. Judgment declaring that Defendant is committing unfair, unconscionable, or deceptive methods, acts, or practices under M.C.L.A. § 445.903 and unfair competition under Michigan common law;

D. Preliminarily and permanently enjoining Defendant and his agents, servants, employees, attorneys, and assigns, and all persons in active concert or participation with any of them, as follows:

1. prohibiting Defendant from providing metal fastener goods and/or services under the GREAT LAKES FASTENERS mark or any names, marks or wording confusingly similar to the GREAT LAKES FASTENERS mark or using any names, marks, wording or other indicia which are likely to be associated with Plaintiff;
2. prohibiting Defendant from otherwise competing unfairly with Plaintiff by trading off of Plaintiff's goodwill and business reputation, or by infringing or misappropriating the GREAT LAKES FASTENERS mark;
3. prohibiting Defendant from stating or suggesting, in any advertising materials, promotional materials, or other materials, that they or their goods and/or services are associated with, related to, approved by, licensed by, or sponsored by Plaintiff;
4. requiring Defendant to promptly destroy all products, product packaging, signage, letterhead, advertisements, marketing materials, and other items that include or display the infringing GREAT LAKES

FASTENERS mark or any confusingly similar names, marks or wording;

5. requiring the Defendant to send letters to all of its customers to notify them that Defendant is not now, and never has been, associated with Plaintiff;

6. requiring Defendant to immediately disable all content on the internet, and specifically the content on the http://www.glfasteners.com/ website, which infringes upon the GREAT LAKES FASTENERS mark or otherwise creates the false impression of an association between Defendant and Plaintiff; and

7. requiring Defendant to immediately transfer the www.glfasteners.com domain name to the Plaintiff at the Defendant's expense.

E. Requiring Defendant to file with this Court and to serve on Plaintiff, within thirty (30) days after entry of the injunction, a report in writing and under oath setting forth in detail the manner and form in which Defendant has complied with the injunction;

F. Requiring Defendant to provide a complete accounting to Plaintiff for any and all profits realized from the provision of goods and/or services under the GREAT LAKES FASTENERS mark;

G. Requiring Defendant to destroy all products, product packaging, product labeling, and any other materials bearing the GREAT LAKES FASTENERS mark or any confusingly similar mark, wording, or logo;

H. Awarding Plaintiff its actual compensatory damages, including but not limited to Defendant's profits and Plaintiff's damages, in an amount to be determined at trial;

I. Awarding Plaintiff treble damages pursuant to 15 U.S.C. § 1117 for Defendants' knowing, intentional, and willful violations of federal law;

J. As this is an exceptional case, pursuant to 15 U.S.C. § 1117(a) and Defendant's acts of deceptive trade practices were willful pursuant to Ohio Revised Code § 4165.03, awarding Plaintiff its costs and attorney's fees;

K. Awarding the Plaintiff statutory damages under 15 U.S.C. § 1117(d) for Defendant's acts of Cyberpircay;

L. Awarding a reasonable attorney's fee pursuant to M.C.L.A § 445.911(2); and

M. Awarding to Plaintiff such other and further relief as this Court deems just and proper.

Respectfully Submitted,

/s/ Dominic A. Frisina

Dominic A. Frisina
Frisina, LLC
4600 Euclid Ave. STE 420
Cleveland, OH 44103
Phone: (440)600-3038
Facsimile: (866)472-0503
dominic@frisinaip.com
Ohio Bar Reg. No. 0078599

Attorney for Plaintiff
Great Lakes Fasteners, Inc.

JURY DEMAND

Pursuant to Fed.R.Civ.P. 38(b) Plaintiff hereby demands a trial by jury for all claims and issues triable by jury.

Respectfully Submitted,

/s/ Dominic A. Frisina

Dominic A. Frisina
Frisina, LLC
4600 Euclid Ave. STE 420
Cleveland, OH 44103
Phone: (440)600-3038
Facsimile: (866)472-0503
dominic@frisinaip.com
Ohio Bar Reg. No. 0078599

Attorney for Plaintiff
Great Lakes Fasteners, Inc.